

ZONING BOARD OF REVIEW

MINUTES

WEDNESDAY, February 4, 2009
7:30 P.M. AT TIVERTON TOWN HALL
343 HIGHLAND ROAD

Members present: Chairman David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

Also present were: Peter Ruggiero, Town Solicitor, Mary Ann Escobar, Court Reporter and Gareth Eames, Building Inspector.

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, February 4, 2009 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

1. A petition has been filed by the Tiverton Yacht Club, 58 Riverside Drive requesting a variance to Article V, Section 1 of the Tiverton Zoning Ordinance in order to permit existing lockers to remain located at 0 Riverside Drive, Tiverton, RI being Map 6-5, Block 73, Card 30 on Tiverton Tax Assessor's maps closer to the side yard setback than currently allowed in a waterfront zoning district.

DECISION: This petition was continued to the April meeting due to it was not advertised properly.

2. A petition has been filed by Omnipoint Communications, Inc of Norton, MA requesting a special use permit to Article IV Section 5 (d) of the Tiverton Zoning Ordinance in order to erect a wireless communications facility consisting of a 140 foot monopole with antennas located at 1710 Eagleville Road, Tiverton, RI being Map 3-13 Block 108 Card 47E on Tiverton Tax Assessor's maps whereby a special use permit is required in an Industrial zoning district.

DECISION: This petition was continued from last month due to questions the board had concerning emissions of wireless transmissions. Donald L. Haes, Jr., Ph.D , appeared on behalf of Omnipoint Communications to address this issue. He stated that the emissions from this particular tower are 1,000 times below what the FCC regulates.

Attorney Brady appeared on behalf of the abutters in opposition to said project. Many neighbors spoke in opposition to this project.

The Board asked Mr. Giammarco about the risk of tower failure and how it would impact the neighbors. Attorney Giammarco stated that there has only been one failure, which had recently occurred where a tower in Wellesley, Mass had a welding accident. The cables failed and the tower came down. The Board asked how close the nearest neighbors were and Mr. Giammarco stated there is a neighbor with a garage that's within the fall zone.

Mr. Peter Corr appeared before the board and stated that he was approached by a site requisition person to put a cell tower on his land on 500 Eagleville Road and he signed an agreement to do so. He just wanted the board and Attorney Giammarco to be made aware of that agreement.

The Board went into Executive Session to discuss the matter. The Board felt that the conditions had not been met by the petitioner. Mr. Mello made a motion to deny said petition, based on the risks involved. He stated that the fall zone was not big enough and that there are alternate sites available for them to consider putting their tower. Mr. Jackson seconded. The Vote was unanimous. Voting were David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

3. A petition has been filed by Omnipoint Communications, Inc of Norton, MA requesting a variance to Article V Section 1 and Article VI Section 5.b. of the Tiverton Zoning Ordinance in order to erect a wireless communications facility consisting of a 140 foot monopole located at 1710 Eagleville Road, Tiverton, RI being Map 3-13 Block 108 Card 47E on Tiverton Tax Assessor's maps exceeding maximum height and the setback requirements of a structure permitted above maximum height in an Industrial zoning district.

DECISION: This petition was continued from last month due to questions the board had concerning emissions of wireless transmissions. Donald L. Haes, Jr., Ph.D , appeared on behalf of Omnipoint Communications to address this issue. He stated that the emissions from this particular tower are 1,000 times below what the FCC regulates.

Attorney Brady appeared on behalf of the abutters in opposition to said project. Many neighbors spoke in opposition to this project.

The Board asked Mr. Giammarco about the risk of tower failure and how it would impact the neighbors. Attorney Giammarco stated that there has only been one failure, which had recently occurred where a tower in Wellesley, Mass had a welding accident. The cables failed and the tower came down. The Board asked how close the nearest neighbors were and Mr. Giammarco stated there is a neighbor with a garage that's within the fall zone.

Mr. Peter Corr appeared before the board and stated that he was approached by a site requisition person to put a cell tower on his land on 500 Eagleville Road, and he signed an agreement to do so. He just wanted the board and Attorney Giammarco to be made aware of that agreement.

The Board went into Executive Session to discuss the matter. The Board felt that the conditions have not been met by the petitioner. Mr. Mello made a motion to deny said petition, based on the risks involved. He stated that the fall zone was not big enough and that there are alternate sites available for them to consider putting their tower. Mr. Jackson seconded. The Vote was unanimous. Voting were David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

4. A petition has been filed for MediaFLO USA, Inc by Gregory Mercier of Woburn, MA requesting a special use permit to Article IV Section 2.n. and 2.o. of the Tiverton Zoning Ordinance in order to install two dishes (satellite receiving antennas) for a co-location at the existing telecommunications facility each at a size of 1.8 meters and exceeding the number of dishes per lot located at 66 Lafayette Road, Tiverton, RI being Map 2-6 Block 117 Card 26A on Tiverton Tax Assessor's maps whereby a special use permit is required in a R80 zoning district.

DECISION: Mr. Gregory Mercier appeared on behalf of MediaFLO to describe the project. They wish to install two 1.8 meter satellite dishes and a broadcast antenna on a proposed equipment shelter at this site. Mr. Mercier stated that MediaFLO visits their sites once a month for inspections. He also went through the relative ordinance sections and stated that this would be in compliance with all the sections of said ordinance regarding this project.

The Board went into Executive Session regarding this petition. Ms. Krumholz made a motion to grant the petition stating that public convenience and welfare are being served by providing this service to this area, that there is no evidence that's been brought forward that it would be detrimental to the public health, safety, morals and welfare, that it will not adversely effect the general character of the area, that it would not create a nuisance and that it in fact is compatible with the comprehensive community plan in that it provides the best cover possible for technology. Mr. Mello seconded. The Vote was unanimous. Voting were David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

5. A petition has been filed by Brian Kronsberg of 26 Last Street, Tiverton, RI requesting a special use to and Article VII Section 4.b. and 4.c. of the Tiverton Zoning Ordinance in order to adjust an adjoining lot line by Administrative Subdivision located between 26 Last Street and 36 Last Street, Tiverton, RI being Map 1-14 Block 45 Cards 87 & 88 respectively leaving lot 88 with less than lot area and allowing an existing garage closer to the side yard setback which increases the non-conformity in a R30 zoning district.

DECISION: Mr. Kronsberg appeared before the board and stated as follows: The property line is close to the wall up at the top, and he wanted to move it down to the bottom of the hill. His neighbor had no problem with him taking that piece of property since he already uses the property and maintains it. He stated that he went before the Planning Board and the Planning Board made a decision on it, in which they sent a letter to the Zoning Board. Mr. Kronsberg stated that because the lots were undersized that this needed to go before the zoning board.

The Board went into Executive Session to discuss the matter. Mr. Mello made a motion to grant stating that it made sense to move the lines as the petitioner was currently taking care of this land anyway and the neighbor didn't have any objection to doing so. Mr. Taylor seconded. The Vote was unanimous. Voting were David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

6. A petition has been filed by Brian Kronsberg of 26 Last Street, Tiverton, RI requesting a dimensional variance to and Article V Section 2(d) and Section 1 of the Tiverton Zoning Ordinance in order to adjust an adjoining lot line by Administrative Subdivision located between 26 Last Street and 36 Last Street, Tiverton, RI being Map 1-14 Block 45 Cards 87 & 88 respectively leaving lot 88 with less than required lot frontage, area and width in a R30 zoning district.

DECISION: Mr. Kronsberg appeared before the board and stated as follows: The property line is close to the wall up at the top, and he wanted to move it down to the bottom of the hill. His neighbor had no problem with him taking that piece of property since he already uses the property and maintains it. He stated that he went before the Planning Board and the Planning Board made a decision on it, in which they sent a letter to the Zoning Board. Mr. Kronsberg stated that because the lots were undersized that this needed to go before the zoning board.

The Board went into Executive Session to discuss the matter. Mr. Mello made a motion to grant stating that there is no negative impact. Mr. Kronsberg currently maintains said

land. Ms. Krumholz seconded. The Vote was unanimous. Voting were David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

7. A petition has been filed by Phyllis M. Peterson, Douglas A & Kim D Reid of Tiverton, RI requesting a variance from Article V Section 2.d. and Section 1 of the Tiverton Zoning Ordinance in order to redefine the property line between two parcels leaving 0 Highland Road with less than required frontage and leaving 96 Highland Road with an existing home closer to the front yard setback and an existing garage closer to the rear yard setback being Map 1-11 Block 92 Cards 33B & 31 respectively on Tiverton Tax Assessor's maps and located in a R40 zoning district.

DECISION: Attorney Leary appeared on behalf of the petitioners. Mr. Reid and Ms. Peterson were present along with Mr. Leary.

The Planning Board Memorandum was introduced as Exhibit A, and the Plan was introduced as Exhibit B by Attorney Leary.

This is an administrative subdivision which was submitted to the planning board for review. The Reid and the Robersshaw properties abut each other. They are proposing to realign the property lines. 5,715 square feet of the Reid property is going to be added to the Robertshaw property and the Reid property will gain about 5.71 acres.

The result will accomplish two things. The Reid land which is presently substandard in an R40 zone at 35,000 square feet will grow to 248,000, almost 249,000 square feet which will obviously be conforming in the R40 zone. The Robertshaw land which presently has no frontage on Highland Road will get 56.1 feet frontage, which currently their land is landlocked.

Bill Smith, Engineer, appeared on behalf of the petitioner and answered questions pertaining to the lot lines by the board.

The Board went into Executive Session to discuss the matter. Mr. Taylor made a motion to grant the least relief necessary to meet the requirement for road width and to give some frontage. Ms. Krumholz seconded. The Vote was unanimous. Voting were David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

8. A petition has been filed by Edward T Rapoza of 3425 Riverside Avenue, Somerset, MA requesting a variance from Article X Section 1.a.(4) and 1.a.(6) and Article IV Section 13.a. of the Tiverton Zoning Ordinance in order to manufacture & assemble mattresses and related products at 34-36 Main Road, Tiverton, RI being Map 9-7 Block 25 Card 10 on Tiverton Tax Assessor's Maps with less than required parking spaces and this use is not permitted in a General Commercial zoning district.

DECISION: Mr. Ed Rapoza and Jonathan Cottro appeared before the board on behalf of this petition. Mr. Cottro owns the building in which Mr. Rapoza would like to build mattresses and sell them. Mr. Rapoza stated that he would like to relocate his business there. He custom builds mattresses.

A neighbor was concerned about deliveries of goods by tractor trailer on Rock Street. Mr. Rapoza stated that the truck will park on Main Road because it would be easier for them, also.

The Board went into Executive Session to discuss the matter. Ms. Krumholz made a motion to grant. Mr. Taylor seconded. The Vote was unanimous. Voting were David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

9. A petition has been filed by the Tiverton Yacht Club of 58 Riverside Drive, Tiverton, RI requesting a variance to Article XIV Section 5 of the Tiverton Zoning Ordinance in order to install an individual septic disposal system (ISDS) within 200 feet of the Sakonnet River to replace an existing ISDS at 58 Riverside Drive, Tiverton, RI being Map 6-5 Block 70 Card 5 on Tiverton Tax Assessor's maps because extension, enlargement or moving of a legal non-conforming use requires a variance in a R40 zoning district.

DECISION: This petition was continued to the April meeting due to it was not advertised properly.

10. A petition has been filed by Susan Finn of Blackthorn LLC requesting a variance to Article V Section 1 and Article VII Section 4.b. of the Tiverton Zoning Ordinance in order to construct a new single family dwelling within the existing footprint of a previous structure at 282 Riverside Drive, Tiverton, RI being Map 6-6 Block 53 Card 24 on Tiverton Tax Assessor's maps closer to the front property line than allowed in a R40 zoning district.

DECISION: Susan Finn and Mary Meagher, architect, appeared to represent this petition. Ms. Finn and her brother are looking to renovate the existing house that sits on this property. It was built in the 1940's and has severely deteriorated. Upon removing some of the walls, they discovered the damage was irreparable and decided they will need to construct an entirely new structure. The new structure will sit on the old footprint. They will also be upgrading the septic to a state of the art septic design approved by DEM.

The Board went into Executive Session to discuss the matter. Mr. Mello made a motion to grant the variance stating that it would be an improvement to the parcel, and they also have to go to CRMC for their approval. Mr. Jackson seconded. The Vote was unanimous. Voting were David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

Administrative Items: The minutes from last month were accepted. Ms. Krumholz made a motion to adjourn. Mr. Mello seconded. The Vote was unanimous. Voting were David Collins, John Jackson, Richard Taylor, Susan Krumholz and Michael Mello.

ZBR:mae